

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

ADRIENNE JENSEN,

Plaintiff,

v.

UNITED STATES TENNIS  
ASSOCIATION et al.,

Defendants.

Case No. 20-2422-JWL

**MEMORANDUM AND ORDER**

On November 17, 2021, the magistrate judge assigned to this case issued a notice and order to show cause requiring plaintiff to show good cause on or before November 23, 2021 why this case should not be dismissed without prejudice against defendant Kansas City Racquet Club pursuant to Rule 41(b) for lack of prosecution. As highlighted by the magistrate judge in that order, defendant Kansas City Racquet Club was never served with the second amended complaint (which was filed in August 2021) and has not answered or otherwise responded to that complaint. Moreover, plaintiff indicated to the magistrate judge during a November 12, 2021 telephone conference that this defendant could be terminated as a party in the case.

Based on a review of the record, the court now dismisses defendant Kansas City Racquet Club without prejudice for lack of prosecution and, independently, because plaintiff has not responded to the show cause order in any respect. Federal Rule of Civil

Procedure 41(b) authorizes the involuntary dismissal of an action “[i]f the plaintiff fails to prosecute or to comply with [the Federal Rules of Civil Procedure] or a court order.” Fed. R. Civ. P. 41(b). If the court dismisses the action with prejudice, it is required to apply the factors the Tenth Circuit listed in *Ehrenhaus v. Reynolds*, 965 F.2d 916 (10th Cir. 1992). *See Banks v. Katzenmeyer*, 680 Fed. Appx. 721, 724 (10th Cir. 2017). If the court dismisses the action without prejudice, it does not need to analyze the factors. *Id.* The court, then, dismisses plaintiff’s claims against this defendant without prejudice.

**IT IS THEREFORE ORDERED BY THE COURT THAT** plaintiff’s claims against defendant Kansas City Racquet Club are hereby dismissed without prejudice.

**IT IS SO ORDERED.**

Dated this 30<sup>th</sup> day of November, 2021, at Kansas City, Kansas.

*s/ John W. Lungstrum*

John W. Lungstrum

United States District Judge